

ASSEMBLY BILL

No. 575

Introduced by Assembly Member Dutra

February 18, 2003

An act to amend Sections 31610, 32001, 32106, and 33002 of, and to add Section 34002.5 to, to the Vehicle Code, relating to motor carriers.

LEGISLATIVE COUNSEL'S DIGEST

AB 575, as introduced, Dutra. Motor carriers: transporting dangerous substances.

(1) Existing law separately regulates the transportation of explosives, hazardous materials, inhalation hazard, hazardous radioactive materials, and flammable or combustible liquids, under specified circumstances.

This bill would require a motor carrier, as defined, operating a vehicle or combination of vehicles on the highway and transporting the above described materials or substances, to ensure that each vehicle is equipped with a device that enables a peace officer, the carrier, or driver to immediately disable the vehicle by one or more specific methods, and to ensure, as applicable, that each vehicle or combination of vehicles transporting these materials or substances maintains a two-way communication devices, as defined, that allows the driver immediate communication with the motor carrier or motor carrier representative.

Because a violation of the Vehicle Code governing these provisions is currently a crime, this bill would impose a state-mandated local program by expanding the scope of that crime.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state.

Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 31610 of the Vehicle Code is amended
2 to read:

3 31610. Every vehicle or combination of vehicles used in the
4 transportation of explosives and subject to this division, in
5 addition to any other equipment required by law, shall be equipped
6 and maintained as required by this section.

7 (a) Brakes and the brake system shall be maintained in good
8 and safe operating condition.

9 (b) The ignition and lighting systems shall be maintained in
10 good operating condition.

11 (c) All tires shall be in good condition, properly matched and
12 inflated. Except as may be necessary to cause immediate
13 replacement, no vehicle shall be driven unless all tires in actual use
14 on the vehicle are properly inflated.

15 (d) Fire extinguishers and other safety equipment prescribed by
16 regulations adopted by the department pursuant to subdivision (f)
17 of Section 34500 and Section 34501 shall be carried in each
18 vehicle or combination of vehicles.

19 (e) No flare, fusee, oil lantern, or any signal device producing
20 a flame shall be carried upon any vehicle or combination of
21 vehicles.

22 (f) *The motor carrier operating a vehicle or combination of*
23 *vehicles described in this section shall comply with the following:*

24 (1) *Ensure that each vehicle is equipped with a device that*
25 *enables a peace officer, the motor carrier, or driver to immediately*
26 *disable the vehicle by one or more of the following methods:*

27 (A) *Cutting off fuel supply to the power unit.*

28 (B) *Depletion of the air from emergency brake lines of the truck,*
29 *tractor, or trailer, thereby activating parking brakes.*

30 (C) *Cutting off electrical power to the engine.*



(2) *Ensure that each vehicle or combination of vehicles transporting explosives maintains a two-way communication device, as defined in subparagraph (B) of paragraph (4) of subdivision (c) of Section 32001, that allows the driver immediate communication with the motor carrier or motor carrier representative.*

SEC. 2. Section 32001 of the Vehicle Code is amended to read:

32001. (a) (1) Any authorized employee of the department may inspect any sealed or unsealed vehicle, container, or shipment subject to this division in maintenance facilities, terminals, or other public or private property to ascertain the quantity and kind of hazardous material and to ensure compliance with ~~the provisions of~~ this code and regulations adopted pursuant to this code.

(2) If a seal is opened for inspection, the department shall reseal any vehicle, container, or shipment prior to further transportation.

(b) Unless specifically stated, nothing contained in this division shall be deemed to exempt any vehicle transporting a hazardous material subject to this division or the operator or any other person from other provisions of this code.

(c) ~~No~~ A motor carrier ~~shall~~ *may not* direct the transportation of any shipment of a hazardous material in any vehicle unless all of the following are complied with:

(1) The vehicle is equipped as required by this code and applicable regulations adopted pursuant to law.

(2) The shipment complies with laws and regulations pertaining to the shipment or transportation of hazardous material.

(3) The motor carrier holds a valid license for the transportation of hazardous materials.

(4) (A) A vehicle or combination of vehicles required to display placards pursuant to Section 27903 is equipped with a two-way communication device, maintained in good working order, that enables the driver to contact the personnel responsible for the safety operations of the motor carrier in the event of an emergency.

(B) For the purposes of this section, “two-way communication device” means a radio, cellular telephone, or other similar device that permits communication between the driver and personnel responsible for the safety operations of the motor carrier.

(5) (A) The enclosed cargo body, when the display of placards is required pursuant to Section 27903, shall be locked and remain locked during transit of the hazardous materials so as to prevent any unauthorized entry and shall be opened only during loading, unloading, or at the direction of a peace officer, an authorized employee of the department, or a person authorized pursuant to Section 25185 of the Health and Safety Code.

(6) *Ensure that each vehicle is equipped with a device that enables a peace officer, the motor carrier, or driver to immediately disable the vehicle by one or more of the following methods:*

(A) *Cutting off fuel supply to the power unit.*

(B) *Depletion of the air from emergency brake lines of the truck, tractor, or trailer, thereby activating parking brakes.*

(C) *Cutting off electrical power to the engine.*

(B) A driver transporting hazardous material in a locked cargo body shall verify that all locks are in place if the vehicle has been left unattended for any length of time. Each driver shall make a notation in his or her log book of the time and date that the verification occurred.

(C) For the purposes of this section, “cargo body” means a fully enclosed area that is an integral part of the vehicle and designed to encapsulate the entire load, such as a van body or an intermodal freight container, and does not mean a tank or flatbed type of vehicle.

(d) The commissioner may issue exemptions from ~~the provisions of this section.~~

(e) Nothing in this section shall limit the ability of other state or local agencies to carry out their regulatory, enforcement, or emergency response duties under other provisions of law.

SEC. 3. Section 32106 of the Vehicle Code is amended to read:

32106. Every vehicle used in the transportation of an inhalation hazard, in addition to any other equipment required by law, shall be equipped and maintained as required by this section.

(a) Brakes and the brake system shall be maintained in good and safe operating condition.

(b) Steering, connection devices, and lighting systems shall be maintained in good operating condition.

(c) All tires shall be in good condition, properly matched and inflated. Except as may be necessary to cause immediate

1 replacement, no vehicle shall be driven unless all tires in actual use
2 on the vehicle are properly inflated.

3 (d) Fire extinguishers and other safety equipment prescribed by
4 regulations adopted by the department pursuant to Section 34501
5 shall be carried in each vehicle or combination of vehicles.

6 (e) *The motor carrier operating a vehicle used in the*
7 *transportation of an inhalation hazard shall comply with the*
8 *following:*

9 (1) *Ensure that each vehicle is equipped with a device that*
10 *enables a peace officer, the motor carrier, or driver to immediately*
11 *disable the vehicle by one or more of the following methods:*

12 (A) *Cutting off fuel supply to the power unit.*

13 (B) *Depletion of the air from emergency brake lines of the truck,*
14 *tractor, or trailer, thereby activating parking brakes.*

15 (C) *Cutting off electrical power to the engine.*

16 (2) *Ensure that each vehicle or combination of vehicles*
17 *transporting an inhalation hazard maintains a two-way*
18 *communication device, as defined in subparagraph (B) of*
19 *paragraph (4) of subdivision (c) of Section 32001, that allows the*
20 *driver immediate communication with the motor carrier or motor*
21 *carrier representative.*

22 SEC. 4. Section 33002 of the Vehicle Code is amended to
23 read:

24 33002. (a) Prior to the transport of any hazardous radioactive
25 materials containing cargoes of commercially produced, spent
26 radioactive fuel outside the confines of a facility where that
27 material was used or stored, or prior to the delivery of these
28 materials to a carrier for transport, each carrier shall provide
29 advance notification, in writing, of the shipment to the Department
30 of the California Highway Patrol, which, in turn, shall notify all
31 of the following persons:

32 (1) The fire chiefs of each city and county fire department and
33 the fire chiefs of each fire protection district serving a population
34 greater than 15,000, which city, county, or fire protection district
35 is located along the proposed route. The Department of the
36 California Highway Patrol, however, shall notify only those fire
37 chiefs who have requested, in writing, to be so notified. A fire chief
38 may revoke this request, in writing, at any time.

1 This paragraph does not apply to any fire chief of a fire
2 department or fire protection district that is composed of 50
3 percent or more volunteer firefighters.

4 (2) The police chiefs of each city where surface transportation
5 would occur along the proposed route.

6 (b) Subdivision (a) applies only to the extent that it does not
7 conflict with federal law.

8 (c) Each advance notification shall contain the following
9 information:

10 (1) The name, address, and telephone number of the shipper,
11 carrier, and receiver of the shipment.

12 (2) If the shipment originates within California, the point of
13 origin of the shipment and the 48-hour period during which
14 departure of the shipment is estimated to occur, the destination of
15 the shipment within California, and the 48-hour period during
16 which the shipment is estimated to arrive.

17 (3) If the shipment originates outside of California, the point of
18 origin of the shipment and the 48-hour period during which the
19 shipment is estimated to arrive at state boundaries, the destination
20 of the shipment within California, and the 48-hour period during
21 which the shipment is estimated to arrive.

22 (4) A telephone number and address for current shipment
23 information.

24 (d) The Department of the California Highway Patrol shall
25 design a standard notification form to include all of the
26 information specified in subdivision (c) and shall make these
27 forms available by April 1, 1984.

28 (e) The notification is required to reach the Department of the
29 California Highway Patrol at least 72 hours before the beginning
30 of the 48-hour period during which departure of the shipment is
31 estimated to occur, and the Department of the California Highway
32 Patrol shall notify the fire chiefs who have requested notification
33 and the police chiefs specified in subdivision (a) at least 36 hours
34 before the beginning of this 48-hour period. A copy of the
35 notification shall be retained by the Department of the California
36 Highway Patrol for three years.

37 (f) The carrier shall also notify, by telephone or telegram, the
38 Department of the California Highway Patrol if there are any
39 changes in the scheduling of a shipment, in the routes to be used
40 for a shipment, or any cancellation of a shipment. The Department

1 of the California Highway Patrol shall, in turn, notify the fire
2 chiefs who have requested notification and the police chiefs
3 specified in subdivision (a) who would be affected by these
4 changes in the scheduling of a shipment, in the routes to be used
5 for a shipment, or the cancellation of a shipment. The Department
6 of the California Highway Patrol shall maintain for three years a
7 record of each telegram and telephonic notification.

8 (g) Any person or agency that receives any information
9 pursuant to this section shall not disseminate or reveal this
10 information to any other person, state agency, city, county, or local
11 agency unless the person or agency determines that disseminating
12 or revealing this information is necessary to protect the public
13 health and safety or the environment.

14 (h) The Governor shall appoint the fire chiefs eligible to
15 request notification, as specified in paragraph (1) of subdivision
16 (a), as the designated representatives of the Governor pursuant to
17 paragraph (1) of subsection (c) of Section 73.21 of Title 10 of the
18 Code of Federal Regulations for the purpose of receiving
19 information classified as safeguards information pursuant to Part
20 73 of Title 10 of the Code of Federal Regulations.

21 (i) Any carrier who violates this section, in addition to any
22 penalty provided by law, is subject to a civil penalty of not more
23 than five hundred dollars (\$500) for each violation. For purposes
24 of this section, each day of a continuing violation is a separate and
25 distinct violation.

26 When establishing the amount of civil liability pursuant to this
27 subdivision, the court shall consider, in addition to other relevant
28 circumstances, the following:

29 (1) The extent of the harm caused by the violation.

30 (2) The persistence of the violation.

31 (3) The number of prior violations by the same violator.

32 (4) The deterrent value of the penalty based on the financial
33 resources of the violator.

34 (j) *A motor carrier transporting materials described in*
35 *subdivision (a) shall comply with the following:*

36 (1) *Ensure that each vehicle is equipped with a device that*
37 *enables a peace officer, the motor carrier, or driver to immediately*
38 *disable the vehicle by one or more of the following methods:*

39 (A) *Cutting off fuel supply to the power unit.*

1 (B) Depletion of the air from emergency brake lines of the truck,
2 tractor, or trailer, thereby activating parking brakes.

3 (C) Cutting off electrical power to the engine.

4 (2) Ensure that each vehicle or combination of vehicles
5 transporting materials described in subdivision (a) maintains a
6 two-way communication device, as defined in subparagraph (B)
7 of paragraph (4) of subdivision (c) of Section 32001, that allows
8 the driver immediate communication with the motor carrier or
9 motor carrier representative.

10 SEC. 5. Section 34002.5 is added to the Vehicle Code, to read:
11 34002.5. A motor carrier, operating a vehicle or combination
12 of vehicles on the highway and transporting flammable or
13 combustible liquids in bulk packages, as designated by the United
14 States Department of Transportation under Title 49 of the Code of
15 Federal Regulations, shall comply with the following:

16 (a) Ensure that each vehicle is equipped with a device that
17 enables a peace officer, the motor carrier, or driver to immediately
18 disable the vehicle by one or more of the following methods:

19 (1) Cutting off fuel supply to the power unit.

20 (2) Depletion of the air from emergency brake lines of the
21 truck, tractor, or trailer, thereby activating parking brakes.

22 (3) Cutting off electrical power to the engine.

23 (b) Ensure that each vehicle or combination of vehicles
24 transporting flammable or combustible liquids maintains a
25 two-way communication device, as defined in subparagraph (B)
26 of paragraph (4) of subdivision (c) of Section 32001, that allows
27 the driver immediate communication with the motor carrier or
28 motor carrier representative.

29 SEC. 6. No reimbursement is required by this act pursuant to
30 Section 6 of Article XIII B of the California Constitution because
31 the only costs that may be incurred by a local agency or school
32 district will be incurred because this act creates a new crime or
33 infraction, eliminates a crime or infraction, or changes the penalty
34 for a crime or infraction, within the meaning of Section 17556 of
35 the Government Code, or changes the definition of a crime within
36 the meaning of Section 6 of Article XIII B of the California
37 Constitution.